

1 Magistrate Judge Baxter recommends granting the Motion, and Plaintiff's Objection does not
2 challenge her analysis.¹

3 *Pro se* pleadings, "however inartfully pleaded," must be held to "less stringent standards
4 than formal pleadings drafted by lawyers." *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972). If
5 the court can reasonably read pleadings to state a valid claim on which the litigant could prevail,
6 it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax
7 and sentence construction, or litigant's unfamiliarity with pleading requirements. *See Boag v.*
8 *MacDougall*, 454 U.S. 364 (1982). A motion to dismiss filed pursuant to Federal Rule of Civil
9 Procedure 12(b)(6) must be viewed in the light most favorable to the plaintiff and all the well-
10 pleaded allegations of the complaint must be accepted as true. *Erickson v. Pardus*, 551 U.S. 89,
11 93-94 (2007). A complaint must be dismissed pursuant to Rule 12 (b)(6) if it does not allege
12 "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*,
13 550 U.S. 544, 570 (2007).
14

15 When a supervisory official is sued in a civil rights action, liability can be imposed only if
16 that official played an "affirmative part" in the complained-of misconduct. *Chinchello v. Fenton*,
17 805 F.2d 126, 133 (3d Cir. 1986). Here, the Complaint only alleges that the three Defendants were
18 involved in the grievance stage. The denial of a grievance does not amount to an affirmative
19 contribution to the alleged misconduct. *See Rode v. Dellarciprete*, 845 F.2d 1195, 1208 (3d Cir.
20 1988).
21
22
23
24
25

¹ Instead, Plaintiff requests Defendant O'Rourke's contact information so that he can properly serve his complaint on her. An Objection to a Report & Recommendation discussing a Motion to Dismiss filed by other defendants is not the appropriate medium for that request.

1 Accordingly, it is hereby ordered that:

2 (1) The Report and Recommendation is adopted;

3 (2) The Motion to Dismiss filed by Defendants Ferdarko, Overmyer, and Wetzel is
4 granted;

5 (3) The Clerk of the Court shall send copies of this Order to the parties.

6 **IT IS SO ORDERED.**

7 Dated this 28th day of February, 2017.
8

9
10 

11
12 Barbara Jacobs Rothstein
13 U.S. District Court Judge
14
15
16
17
18
19
20
21
22
23
24
25